



SHARI'AH GOVERNANCE FRAMEWORK

FOR

ISLAMIC BANKING INSTITUTIONS

**ISLAMIC BANKING DEPARTMENT
STATE BANK OF PAKISTAN**

ACRONYMS

AAOIFI	Accounting and Auditing Organization for Islamic Financial Institutions
AGM	Annual General Meeting
BAC	Board Audit Committee
BOD	Board of Directors
CEO	Chief Executive Officer
EM	Executive Management
FAPC	Fit and Proper Criteria (for appointment of Shari'ah Scholar members of Shari'ah Board of an IBI)
FAQs	Frequently Asked Questions
IAH	Investment Account Holder
IBD	Islamic Banking Department (of SBP)
IBI	Islamic Banking Institution (includes full-fledged Islamic bank, Islamic banking subsidiary, and Islamic banking division of a conventional bank)
ICAP	Institute of Chartered Accountants of Pakistan
IFI	Islamic Financial Institution (includes IBI, Takaful Company, Islamic Mutual Fund and Collective Investment Scheme, Modaraba, and any other institution declared or notified as such)
ISA	Internal Shari'ah Audit
ISAU	Internal Shari'ah Audit Unit
PLS	Profit and Loss Sharing
RSBM	Resident Shari'ah Board Member
SB	Shari'ah Board (of IBI)
SBP	State Bank of Pakistan
SCD	Shari'ah Compliance Department (of IBI)
SECP	Securities and Exchange Commission of Pakistan
SGF	Shari'ah Governance Framework
SOP	Standard Operating Procedure
TOR	Terms of Reference

Table of Contents

Introduction	1
1. Role of Board of Directors (BOD)	2
2. Role of Executive Management (EM).....	2
3. Shari’ah Board (SB).....	3
4. Resident Shari’ah Board Member (RSBM)	6
5. Shari’ah Compliance Department (SCD)	6
6. Internal Shari’ah Audit (ISA)	8
7. External Shari’ah Audit.....	8
8. Conflict Resolution	9
9. Competence of the Organs dealing with Shari’ah Governance Framework	9
Annexure – A: Fit and Proper Criteria (FAPC).....	11
Annexure – B: Report of Shari’ah Board	19

SHARI’AH GOVERNANCE FRAMEWORK FOR ISLAMIC BANKING INSTITUTIONS

Introduction

Complying with the principles of Shari’ah as enshrined in the Holy Quran and the Sunnah of the Prophet (peace be upon him) is the essence and raison d’être of Islamic banking industry. A sound and effective Shari’ah compliance framework is thus critically important to give confidence to the general public about Shari’ah conformity of Islamic Banking Institutions’ (IBIs’) products and services. State Bank of Pakistan (SBP) endeavors to ensure that the operations of IBIs remain in conformity with the rules and principles of Shari’ah. Accordingly, it has been issuing regulations, instructions and guidelines on Shari’ah compliance since the re-launch of Islamic banking in 2001.

In 2008, SBP issued detailed set of instructions and guidelines for Shari’ah compliance vide IBD Circular No. 2 of 2008. However, keeping in view the developments taking place in the Islamic banking industry over the recent years, some of the instructions and guidelines have been revisited and a comprehensive Shari’ah Governance Framework (‘SGF or Framework’) has been developed. The Framework shall be applicable to all IBIs i.e. full-fledged Islamic banks, Islamic banking subsidiaries and Islamic banking divisions of conventional banks. The primary objective of the Framework is to strengthen the overall Shari’ah compliance environment of IBIs and explicitly define the roles and responsibilities of various organs of IBIs including the Board of Directors (BOD), Executive Management (EM), Shari’ah Board (SB), Shari’ah Compliance Department (SCD), internal auditors and external auditors towards Shari’ah compliance.

The SGF of an IBI shall, at the minimum, cover the following:

- i. An effective mechanism for the BOD’s oversight of the IBI’s Shari’ah compliance environment.
- ii. Accountability of management and staff of the IBI in implementation of the Framework.
- iii. An independent and effective SB appointed as per Fit and Proper Criteria (FAPC) set out in Annexure-A of this Framework, with one of its Shari’ah scholar members working as Resident Shari’ah Board Member (RSBM) to oversee the procedures and processes to be adopted for implementation of the SB’s fatawa, resolutions and guidelines and provide clarification thereon.
- iv. A SCD to assist SB and to serve as a conduit between the SB and the management of an IBI.
- v. Shari’ah compliance review mechanism to assess operative effectiveness of Shari’ah governance and compliance framework devised by the SB and BOD of the IBI.
- vi. An independent Internal Shari’ah Audit Unit (ISAU) which may be a part of internal audit department or an independent unit depending on the size of the IBI.
- vii. External Shari’ah Audit to be undertaken along with the annual audit of the IBI.

1. Role of Board of Directors (BOD)

- i. The BOD shall be ultimately responsible and accountable for ensuring full conformity of the IBI's operations with Shari'ah principles. Like other risks faced by an IBI, the BOD needs to be fully cognizant of the risk of Shari'ah non-compliance and its potential implications on the reputation and business of the IBI. Towards this end, the BOD shall introduce an effective mechanism including diligent oversight on functioning of the Framework and compliance with the fatawa, instructions, and guidelines of the SB.
- ii. The BOD should also be fully aware of its fiduciary responsibility, particularly, towards Investment Account Holders (IAHs) /Profit and Loss Sharing depositors (PLS depositors) who accept risks that are almost similar to those of the shareholders but without having any voting rights and fora like Annual General Meetings (AGMs) to express their concerns on the IBI's performance. The IAHs expect IBIs to not only exercise prudence in deployment of their funds in different avenues but to also ensure Shari'ah conformity of returns to be earned and distributed to them. The BOD is thus expected to introduce the necessary mechanisms and risk management systems to safeguard the interests of IAHs/PLS depositors.
- iii. The BOD shall appoint a SB to perform such functions as stipulated under Para 3(B) of this Framework and shall cause to take appropriate measures for introducing and implementing an effective Shari'ah compliance framework. It shall also approve the Terms of Reference (TOR) of the SB and fix remuneration of the SB members. In case of foreign banks having Islamic Banking Branches, the appointing authority shall be the Country Manager/CEO in Pakistan.
- iv. The BOD shall meet the SB at least on a half yearly basis to a) have a detailed briefing on the Shari'ah compliance environment, the issues/weaknesses (if any), and recommendations to improve Shari'ah compliance environment, and b) ensure timely and effective enforcement of the SB's decisions, fatawa, observations and recommendations. However, one of the meetings between the SB and BOD, during a calendar year, may be held through video conferencing.

2. Role of Executive Management (EM)

- i. The EM of an IBI shall be responsible for implementation of the Framework. Every concerned executive and staff shall ensure that all procedure manuals, product programs and structures, process flows, related agreements and contracts, etc as approved by the SB are made available to and understood by everyone working in his/her group or functional area. Moreover, every executive shall be responsible for arranging adequate training to his/her group employees in coordination with Training Department and SCD of the IBI.
- ii. Every group head and executive shall also be accountable and responsible for implementation of decisions, rulings, fatawa and guidelines given by SB relating to his/her group or functional area. The EM needs to show zero tolerance on Shari'ah non-compliance and take appropriate action against employees who have failed to ensure compliance with the Shari'ah rules and principles in their respective areas of responsibility. Instances of Shari'ah non-compliance shall also have a strong bearing on their performance appraisals, promotions, increments, and bonuses etc.
- iii. Whenever the management refers a matter to the SB for a decision, ruling or fatwa it shall ensure that complete and relevant information is submitted to the SB for its proper understanding of proposal(s) and product(s).

- iv. The decisions, rulings, fatawa of the SB shall be binding on the IBI.
- v. IBIs should arrange trainings and/or orientation programs on Islamic banking and finance for the members of the BOD and appropriate training programs for senior executives to improve their understanding and general acumen in Islamic finance.
- vi. The management is also expected to arrange programs on a regular basis for orienting and sensitizing the BOD and key executives about the business utility and importance of an enabling Shari'ah compliance environment and the key distinguishing features of Islamic finance products vis- à -vis conventional banking products.

3. Shari'ah Board (SB)

A. Constitution of the SB and Appointment of SB Members

- i. Every IBI shall have an SB comprising at least three Shari'ah scholars appointed by the BOD as per the FAPC prescribed in Annexure-A of this Framework.
- ii. The appointment of the SB members shall be subject to prior written clearance of SBP. The IBIs already having a Shari'ah Board not cleared by SBP under Shari'ah Governance Framework shall seek clearance from SBP about their existing SB within 45 days of notification of this Framework.
- iii. IBIs may, in consultation with the SB, also seek services of or engage lawyers, accountants, economists and such other professionals to assist and advise the SB on banking, legal, financial, economic and other relevant matters. The engagement of such members shall however be of advisory nature and they shall not have any voting rights in the meetings of SB.
- iv. The SB members shall be appointed for a term of three (3) years and shall be eligible for reappointment. The Shari'ah scholars working in IBIs as Shari'ah Advisors at the time of coming into force of this Framework may be reappointed as a member, RSBM or Chairperson of SB, as the case may be, and their term shall start from the date of reappointment.
- v. Upto three years from the date of coming into force of this Framework, SB members, except RSBM, may serve on the SBs of up to three IBIs in Pakistan.
- vi. IBIs shall include a confidentiality clause in the contract or terms of appointment of SB members for maintaining secrecy and confidentiality of IBI's non-public information and matters.
- vii. At least two months prior to the expiry of the term, members (including the Chairperson) of SB may be reappointed as a member of SB for another term, subject to prior written clearance of SBP and pursuant to FAPC.
- viii. If an IBI decides not to offer another term to any member(s) of the SB, it shall also inform Islamic Banking Department (IBD), SBP about its decision, along with the rationale, at least three months before the expiry of the term.
- ix. No member of a SB shall be terminated before the expiry of his/her term except under any of the circumstances or on any of the grounds stipulated in paragraphs 3 to 6 of the FAPC given in Annexure-A of this Framework. The IBI shall submit detailed rationale to the SBP along with documentary evidence, if any, to support its decision. The decision to terminate any member of SB shall be subject to prior approval from IBD-SBP on sufficient cause being shown by the IBI and upon giving such member due opportunity of being heard by the BOD of the IBI.

- x. In case any SB member resigns before the expiry of his/her term, such member shall submit the resignation, together with reasons thereof, to the BOD in case of domestic banks and Country Manager in case of foreign banks along with a copy to IBD-SBP.
- xi. A casual vacancy arising on the SB caused by resignation, removal or termination or death of a member shall be filled by the BOD within three months from the date on which such vacancy was caused.

B. Role of Shari'ah Board

- i. The SB shall be empowered to consider, decide and supervise all Shari'ah related matters of the IBI. All decisions, rulings, fatawa of the SB shall be binding on the IBI whereas SB shall be responsible and accountable for all its Shari'ah related decisions.
- ii. The SB shall cause to develop a comprehensive Shari'ah compliance framework for all areas of operations of the IBI. All products or services to be offered and/or launched by the IBI shall have prior approval of the SB.
- iii. The SB shall ensure that all the procedure manuals, product programs/structures, process flows, related agreements, marketing advertisements, sales illustrations and brochures are in conformity with the rules and principles of Shari'ah. The EM while seeking the SB's decision on any proposal shall ensure provision of all necessary information, details and documents so as to enable the SB to have proper understanding of the product, its process flows, business and economic outcomes and Shari'ah permissibility or impermissibility.
- iv. The SB shall have at all reasonable times unhindered access to all books of accounts, records, documents and information from all sources including professional advisors and IBI's employees in the due discharge of its duties.
- v. Considering the importance and binding nature of decisions, rulings and fatawa given by SB, it shall rigorously deliberate on the issue placed before it for consideration before giving any decision/fatwa. All such deliberations and rationale for allowing or disallowing a particular product or service shall be duly recorded and documented.
- vi. All reports of internal Shari'ah audit and Shari'ah compliance reviews shall be submitted to the SB for consideration and prescribing appropriate enforcement action. The SB shall take up the unresolved issues with management and shall include all significant outstanding issues in its annual report on the Shari'ah compliance environment of the IBI. Moreover, the Head of SCD and RSBM shall discuss both the significant and unresolved issues with SBP inspection team during their on-site inspection.
- vii. The SB shall also specify the process/procedures to be adopted for changing, modifying or revisiting fatawa, rulings and guidelines already issued by it.

Notwithstanding anything contained herein, all decisions and rulings of the SB of the IBI shall be in conformity with the directives, regulations, instructions and guidelines issued by SBP in accordance with the rulings of SBP's Shari'ah Board.

C. Shari'ah Board Meetings, Quorum, Minutes

- i. The SB shall, in addition to its meetings with the BOD, pursuant to paragraph 1(iv) of this Framework, meet at least on a quarterly basis and each member of the SB shall attend at least two thirds of the meetings held during a calendar year.

Further, in addition to the mandatory quarterly meeting, the Chairperson of the SB may convene SB's meetings as and when he deems it necessary.

- ii. The quorum of the SB meetings, including that with BOD of the IBI, shall be at least two thirds of Shari'ah scholar members.
- iii. The SB decisions should preferably be made through consensus of the Shari'ah scholar members; however in case of difference of opinion, the decisions may be made by a majority vote of the Shari'ah scholar members. In the event of equality of votes, the Chairperson shall have a second or casting vote.
- iv. All meetings shall be chaired by the Chairperson of the SB and in his absence one of the Shari'ah scholar members, other than the RSBM, shall be elected as the acting Chairperson to preside over the meeting.
- v. The agenda of the SB meeting along with sufficient details and documents shall be sent to SB members well in advance enabling them to come prepared to the meeting; the specific timelines for submission of the agenda shall be set by the SB itself.
- vi. The meetings of the SB shall be held by physical presence of the members. However, in appropriate circumstances to be determined by the Chairman of the SB, meeting(s) may be held through video conferencing subject to recording of proper minutes of the meeting.
- vii. All SB approvals taken through circulation shall be placed for ratification of the SB at its next meeting.
- viii. The SB shall ensure to cause that minutes of its meetings are properly recorded incorporating necessary details of all decisions, rulings and fatawa issued along with the rationale and difference of opinion or dissenting note, if any. Further, the minutes shall be signed by all the SB members who attended the meeting and a copy thereof be provided to each member of the SB.
- ix. The minutes of meetings of the SB shall be submitted to IBD-SBP within 45 days of the meeting for information and record. Further, the minutes shall be made available to the BOD, SBP inspection teams, internal auditors and external auditors on request, enabling them to appreciate and understand the rationale and background of the SB rulings, decisions and fatawa.

D. Independence of Shari'ah Board (SB)

The SB shall discharge its duties independently and objectively. The members of the SB shall continuously assess their relationships with their respective IBIs to identify any situation where any issue related to independence may actually or potentially arise or can reasonably be inferred. The BOD shall ensure that the SB is not subject to any undue influence or pressure from the management and/or its own members. The IBI shall inter alia comply with the following:

- i. The appointment letter of each SB member shall clearly state the role and responsibilities of the SB and shall be duly accepted by him/her.
- ii. The members of SB shall neither involve nor be responsible in any manner for the operational activities or management function of the IBI.
- iii. SBP Prudential Regulation G-2 shall also be applicable on the members of the SB. However, the BOD of the IBI may approve employee related facilities for the SB members and the same shall be stipulated in their appointment letter.

E. Report of Shari'ah Board

The SB shall, based on the findings and reports of internal Shari'ah audit and external Shari'ah audit and Shari'ah compliance review, prepare a report on the IBI's Shari'ah compliance environment and conditions. The minimum requirements for the report are given in Annexure – B of this Framework. The report shall be signed by all the members of the SB. Further, the report shall also be placed before the BOD meeting for discussion and shall be published in the IBI's annual report.

4. Resident Shari'ah Board Member (RSBM)

The SB of an IBI shall, in consultation with the management, designate one of the SB members other than the Chairperson as RSBM. The RSBM shall oversee the procedures to be adopted for implementation of the resolutions, pronouncements and fatawa of the SB and provide guidance thereon. In principle, RSBM shall be appointed on a full time basis; however, SB having regard to specific circumstances of the IBI may, at its own discretion, allow RSBM to devote some time to academic activities related to the Shari'ah. Further, RSBM of an IBI shall not serve in any capacity whatsoever in any other IBI in Pakistan. However, he may with prior approval of the SB of IBI serve as a member of Shari'ah Board of a maximum two other IFIs.

Without prejudice to the generality of the aforesaid provision, the RSBM will have the following role:

- i. Provide explanation/clarification to management and staff of IBI on products, documents, process flows and on other operational Shari'ah related matters, in the light of decisions, rulings, fatawa already issued by the SB.
- ii. The management while seeking explanation/clarification from RSBM on any matter shall ensure provision of all necessary information, details and documents so as to enable him/her to have proper understanding of the product, its process flows, business and economic outcomes and Shari'ah permissibility or impermissibility.
- iii. Provide guidance to the IBI regarding the Shari'ah aspects of new products /ideas.
- iv. Guide the SCD in conducting Shari'ah compliance reviews of key business areas on a test check basis.
- v. Respond to Shari'ah related queries of IBI's clients regarding IBI's products and services.
- vi. Facilitate the SCD and Training Department in designing and conducting training activities.
- vii. Submit at least a quarterly report to the SB, for ratification, of all the material explanations/clarifications provided by him/her on products, services, documents, process flows and other operational Shari'ah related issues, in the light of decisions, rulings, and fatawa already issued by SB.

The explanation or clarification given by RSBM shall be binding on IBI.

5. Shari'ah Compliance Department (SCD)

Every IBI shall have a SCD which may be headed by a RSBM or a suitably qualified, trained and experienced officer recommended by the SB. The SCD shall have dedicated and adequate staff as per the advice of the SB, so as to enable it to discharge its due responsibilities in a proper and timely manner. Further, the SCD shall work under the overall guidance and supervision of the SB and its Head shall report to the SB and

his/her performance appraisal shall be finalized by SB. The SCD shall be responsible for the following:

i. Secretariat of Shari’ah Board

It shall serve as the Secretariat to the SB with the responsibility to provide all the necessary secretarial support to the SB including timely provision of meetings’ agenda, proposals, and working papers. It shall also maintain proper record of agenda items, minutes of the SB meetings and fatawa issued by the SB along with their rationale.

ii. Conduit between Management and the Shari’ah Board

The SCD shall act as conduit between the SB and management of the IBI. It shall review all the product proposals and related agreements, contracts, manuals, process flows, checklists submitted by management before presenting these to the SB for approval. The RSBM will also help and advise the SCD in its review of the proposals to be submitted to the SB.

iii. Shari’ah Compliance Review

The SCD shall keep a continuous watch on the IBI’s Shari’ah compliance environment and shall ensure that all organs of Shari’ah Governance including the BOD oversight mechanism, internal Shari’ah audit, and enforcement of the SB’s directives by EM are operative and are effectively discharging their respective functions and responsibilities as defined in the Framework. In order to monitor and ensure compliance of IBI’s operations on an ongoing basis with the rules and principles of Shari’ah, the SCD under the supervision of RSBM shall, on sample basis, conduct an internal Shari’ah control review of the IBI’s business units, branches, and other Head Office departments.

The Shari’ah compliance review shall be conducted to ensure that the IBI’s operations are in conformity with fatawa/guidelines issued by SB of the IBI and directives, regulation, instructions and guidelines issued by SBP in accordance with the rulings of SBP’s Shari’ah Board. Based on these reviews and other mechanisms as may be introduced by the SCD for assessing conformity of the IBI’s operations with the principles and rules of the Shari’ah, the RSBM shall periodically submit a report to the SB on the overall Shari’ah compliance environment of the IBI, the ownership and commitment of the BOD and EM in building the necessary infrastructure for Shari’ah compliance together with identifying key areas of improvement. The frequency of this report shall be decided by the SB.

iv. Enforcement of Shari’ah Audit Reports

All the reports of internal Shari’ah audit, external Shari’ah audit, internal Shari’ah review, and SBP Shari’ah compliance inspection shall be sent to SB for information and for determining appropriate corrective actions. The Board Audit Committee (BAC) shall ensure compliance of the corrective actions determined by SB on the reports of ‘internal Shari’ah audit’ and ‘external Shari’ah audit’. The SCD shall, however, be responsible for enforcement of corrective actions directed by the SB on the reports of ‘internal Shari’ah review’ and ‘SBP Shari’ah compliance inspection’. The BAC and SCD shall also keep record of all unresolved issues requiring compliance and shall apprise the SB of their status at least on a half yearly basis. The SB shall take up the unresolved issues with the management and shall include all significant outstanding issues in its annual Shari’ah Report to be published in the Annual Report of the IBI. Moreover, SB/Head of SCD shall discuss all the significant and unresolved issues with SBP inspection team during their on-site inspection.

v. Training on Shari'ah Compliance

The SCD shall facilitate Training Unit of Human Resources Department of IBI to develop training material and to organize Shari'ah training activities as per training plan approved by the management and the SB. Moreover, the SCD shall be responsible for ensuring that necessary training has been imparted to all the Islamic banking staff and that periodic refresher courses are also organized by HRD to keep the staff abreast with the latest developments in the field. The management shall provide all required facilities for this purpose and the SCD shall report its concerns, if any, in this regard to the SB.

vi. Other Functions

- a. The SCD shall prepare a comprehensive procedure manual including checklists and standard operating procedures (SOPs) to assist its staff in discharging their duties.
- b. The SCD shall ensure that the IBI's website gives a brief introduction of the SB members, disclosures required by SBP, key features of all the products offered and their difference with conventional products, frequently asked questions (FAQs) and the contact details of the SCD personnel.

6. Internal Shari'ah Audit

- i. Every IBI shall have an Internal Shari'ah Audit Unit (ISAU) which may be a part of the internal audit department or an independent unit, depending on the size of the IBI. Moreover, Head of ISAU shall report to Head of Internal Audit in case it is part of Internal Audit Department, whereas in cases where ISAU is independent, it shall report directly to Board Audit Committee (BAC).
- ii. The IBI shall ensure that staff of ISAU are adequately qualified and trained to perform their duties. Internal Shari'ah audit staff shall be dedicated to Shari'ah audit only; however, Internal Shari'ah audit and regular audit of a branch or a function can be performed simultaneously.
- iii. The scope, methodology, Internal Shari'ah audit manual and format of Internal Shari'ah audit report shall be reviewed and approved by the SB. Furthermore, the SB shall review the methodology and Internal Shari'ah audit manual at regular intervals.
- iv. The Internal Audit Department or ISAU, as the case may be, shall prepare Internal Shari'ah audit plan which, after review by the SB, shall be approved by the BAC.
- v. The final Internal Shari'ah audit report shall be submitted to SB for consideration and for determining appropriate corrective action(s).
- vi. The final report along with the enforcement/corrective actions determined by the SB shall be sent to the BAC for information and ensuring compliance with the SB directives on the report. The SCD shall submit a report regarding the status of compliance of audit observations to the SB for information on a periodic basis.

7. External Shari'ah Audit

In order to have an independent assessment of the Shari'ah governance and compliance environment of an IBI, the scope of external audit of IBIs shall also include an independent and objective assessment of the conformity of IBI's operations with Shari'ah rules and principles. The audit firms would need to take appropriate measures to have the capacity in relation to resources and methodology to conduct the Shari'ah audit of an IBI.

For the purposes of this Framework, the scope of external Shari'ah audit shall be limited to assessing compliance of an IBI's financial arrangements, contracts, and transactions with Shari'ah rules and principles. The Shari'ah rules and principles for the purpose of the external Shari'ah audit shall mean the following, in the sequence provided below:

- i. Essentials, Regulations, Instructions and Guidelines issued by the State Bank of Pakistan (SBP) including the Shari'ah Standards issued by Accounting and Auditing Organization for Islamic Financial Institutions (AAOIFI), as adopted by SBP with suitable modifications, if any;
- ii. The rulings of SBP's Shari'ah Board as notified by SBP;
- iii. Requirements of the applicable Islamic Financial Accounting Standards as notified by the Securities and Exchange Commission of Pakistan (SECP) and as circulated by SBP;
- iv. Approvals and rulings given by the SB of an IBI in line with the SBP directives, regulations, instructions and guidelines issued in accordance with the rulings of SBP's Shari'ah Board.

The external auditors shall prepare a report for the BOD giving their opinion on the above and shall also report on a) the overall Shari'ah compliance environment, b) the risks associated with Shari'ah non-compliance, c) the capacity and quality of the risk management system to measure, manage and mitigate these risks, d) the level of awareness and sensitization of the EM and the BOD in addressing the said risks and e) any other issues deemed significant by the external auditors. A copy of the report shall also be submitted to IBD-SBP.

8. Conflict Resolution

- i. In case of any difference of opinion between an IBI and the SBP inspection team or any other department of SBP regarding Shari'ah conformity of IBI's products, services, contracts and transactions, the matter shall be referred to IBD-SBP. If deemed appropriate by IBD-SBP it may escalate the case to SBP's Shari'ah Board for consideration and decision.
- ii. Similarly, in case of a difference of opinion between IBD-SBP and IBI on Shari'ah conformity of IBI's products, services, contracts and transactions, IBD-SBP shall refer the case to SBP's Shari'ah Board for consideration and decision on the issue of Shari'ah permissibility of such matters.
- iii. The SB of the IBI may also refer Shari'ah issues to SBP for seeking opinion of its Shari'ah Board. The case shall be sent to SBP along with all relevant documents and the related Shari'ah arguments. The SBP's Shari'ah Board shall consider and give its decision or provide guidance, as the case may be, on such issues at its earliest convenience.

9. Competence of the Organs Dealing with Shari'ah Governance Framework

- i. The BOD and EM of an IBI are expected to have a reasonable knowledge of Shari'ah principles and their broad application in the context of the Islamic finance. It shall be ensured that the members of the BOD and the EM are provided orientation sessions/training in Islamic banking on a regular basis which, apart from their professional development, would also facilitate an effective implementation of this Framework.

- ii. Similarly, members of the SB of an IBI shall also be required to undergo and attend training sessions and orientation programs related to the applicable legal and regulatory framework, banking, finance, treasury operations etc to improve their understanding of such matters in the context of an IBI.
- iii. An IBI shall also ensure that all its key executives including heads of credit, marketing, operations and risk management, branch managers, relationship managers and other front line staff have adequate understanding of Islamic banking and finance and are able to appreciate and understand inherent and reputational risks of Shari'ah non-compliance. The IBIs shall also ensure to require such officials to undergo and attend various training sessions, seminars, and workshops for their continuing professional development. This would provide confidence to the public that the IBI they are dealing with is manned by professionals having adequate experience and expertise in Islamic banking.

X...X...X

FIT & PROPER CRITERIA FOR THE APPOINTMENT OF SHARI'AH SCHOLAR MEMBER OF SHARI'AH BOARD OF AN IBI

1. Academic Qualification:

'*Shahadat ul Aalamiyyah* (شهادة العالمية) Degree (*Dars e Nizami*) from any recognized Board of Madaris with minimum 70% marks and Bachelor's Degree with a minimum of 2nd Class

OR

Post Graduate Degree in Kuliyyatush Shari'ah (كلية الشريعة) or Kuliyyah *Usooluddin* (كلية اصول الدين), L.L.M. (*Shari'ah*) with a minimum GPA of 3.0 or equivalent from any recognized University.

2. Experience and Exposure:

- i. The Shari'ah scholar members must have at least four (4) years experience of giving Shari'ah rulings including the period of *Takhasus fil Ifta*; or at least five (5) years post qualification experience in teaching or Research and Development in Islamic Banking and Finance. Preference will be given to those who have certificate in *Takhassus fil Fiqh/Takhasus fil Ifta*.
- ii. Majority of Shari'ah scholar members of Shari'ah Board of an IBI, including RSBM, shall have at least three (3) years' experience as Shari'ah Advisor or Member of Shari'ah Board (SB) of an Islamic Financial Institution (IFI) or deputy to a Shari'ah Advisor or member of the Shari'ah team of an IFI.
- iii. Each Shari'ah scholar member of the SB must be able to demonstrate:
 - a) Adequate understanding of banking and finance in general and Islamic finance in particular;
 - b) Strong skills in Islamic jurisprudence (*Usul al-Fiqh*), as he must know the appropriate *Fiqh* methodologies for deriving juristic opinion
 - c) Good comprehension of Arabic language
 - d) Good communication skills in English Language

On a sufficient cause being shown by an IBI and an application made by it to the effect, the SBP may, at its discretion, allow relaxation from one or more of the aforesaid requirements of the FAPC, for such period and on such condition(s), as the SBP may deem appropriate in the specific circumstances of each case.

3. Track Record:

Each member of Shari'ah Board must have an impeccable track record of professional conduct and in social, economic and financial dealings.

4. Solvency & Financial Integrity:

Each member of the Shari'ah Board shall, at the time of acceptance of his appointment thereon, declare in writing that he:

- i. has not been associated with any illegal activity.
- ii. has not been in default of payment of dues owed to any financial institution and/or default in payment of any taxes in an individual capacity or as a proprietary

concern or as a partner of any partnership firm or as a director or CEO or major shareholder of a company or any other corporate body in Pakistan or abroad.

5. Integrity, Honesty and Reputation:

Each member of the Shari'ah Board shall, at the time of acceptance of his appointment thereon, declare in writing that he:

- i. has not been convicted of any criminal offence involving financial impropriety or moral turpitude.
- ii. has not been subject to any adverse findings or any settlement in civil or criminal proceedings with regard to investments, financial or business misconduct or fraud.
- iii. has not contravened any of the requirements and standards of financial, banking or corporate regulatory regime.

6. Conflict Of Interest:

- i. The Resident Shari'ah Board Member (RSBM) of an Islamic Banking Institution (IBI) shall not work or be employed in any other IBI in any capacity whatsoever. He may, however, with prior approval of the SB of IBI serve as a member of the Shari'ah Board of a maximum two other IFIs.
- ii. Upto three years from the date of coming into force of this Framework, SB members, except the RSBM, can serve as a member on the SBs of up to three IBIs in Pakistan.
- iii. Members of a Shari'ah Board shall neither own nor have any direct or beneficial equity or proprietary interest in the business of: (a) the IFI in which they are being appointed/working as member Shari'ah Board, (b) Exchange Company (c) Member of Stock Exchange, and (d) Corporate Brokerage House nor he should be an employee of any of the aforementioned entities. Any person, on being appointed as a member of Shari'ah Board of an IBI and is exposed to any of the aforesaid restriction(s), shall within sixty (60) days of assuming his office as a member, divest himself from ownership or holding of equity or proprietorial interest in any of the companies or undertakings stipulated above. Failure to do so shall, ipso facto, render such person as disqualified from being a member of the Shari'ah Board.

7. Declaration of Fidelity and Secrecy as per Section 33A of BCO 1962:

Each member of the Shari'ah Board shall sign a declaration of fidelity and secrecy, before assuming office, as per provisions of Sub-section (2) of Section 33A of the Banking Companies Ordinance 1962 or any other statutory modification thereof, the format of which is provided as set out below. The Declaration shall be kept in safe custody by the IBI.

X...X...X

**PROFORMA - PARTICULARS OF SHARI'AH BOARD MEMEBRS
TO BE SUBMITTED BY ISLAMIC BANKING INSTITUTION**

Photo 2 x2.5 cm

1. Full name: _____

2. Father's name: _____

3. Date of Birth (dd/mm/yyyy): _____ Place of Birth: _____

4. Religion: _____ Nationality (ies): _____

5. C.N.I.C. Number/Passport No.: _____ N.T.N. _____

6. Present residential address in full: _____

7. Permanent residential address in full: _____

8. Present job/Status: _____

Institution/ Official address: _____

9. Contact Details:

Residential Phone No. _____ Office Phone No. _____

Mobile Phone No. _____ E-mail: _____

10. Education:

a) Details of Shahadat-ul-Aalamiyyah/Post Graduate Degree:

S. No.	Degree Name	Board/ University	Date of passing	Percentage Marks	Grade/ GPA
--------	-------------	----------------------	--------------------	---------------------	---------------

b) Major Subjects studied in Bachelors/Masters degree:

- i) _____
- ii) _____
- iii) _____
- iv) _____

c) Courses/ Trainings attended related to Banking and Finance, if any:

- i) _____
- ii) _____
- iii) _____

d) Language Skills in English and Arabic (Excellent/Good/Fair/Poor)

Proficiency in	English	Arabic
Writing		
Reading		
Speaking		

e) Courses/ Certifications in English/ Arabic, if any:

i) _____

ii) _____

iii) _____

f) Computer Knowledge (Courses/ certifications or skills acquired)

i) _____

ii) _____

ii) _____

11. Experience/Appointments/Positions held during the last five years:

a) Fatwa Experience:

i) Experience of giving Shari'ah rulings:

S.No.	Name of Institution	Field(s) of Fatwa	From (dd/mm/yyyy)	To (dd/mm/yyyy)
-------	---------------------	-------------------	----------------------	--------------------

ii) No. of Fatawa Issued

S.No.	Name of Institution	Field(s) of Fatwa	No. of Fatawa
-------	---------------------	-------------------	---------------

iii) No. of Fatawa Published

S.No.	Name of Publication	Subject	Publisher Name	Year of Publication
-------	---------------------	---------	----------------	---------------------

b) Research Experience: _____ Years

i) Total No. of Publications/Articles Published in Research Journals: _____

S.No.	Subject of Publication or Article	Name of Journal/ Magazine	Date of Publication
-------	-----------------------------------	------------------------------	---------------------

ii) No. of Books Authored/Compiled: _____

S.No.	Name of book	Subject	Publisher Name	Year of Publication
-------	--------------	---------	----------------	---------------------

c) Teaching Experience:

S.No.	Name of Institution	Subjects and Books Taught	Level of Teaching (Under Graduation /Graduation/ Post Graduation)	From (dd/mm/yyyy)	To (dd/mm/yyyy)
-------	---------------------	---------------------------	--	----------------------	--------------------

d) Banking Experience

S.No.	Name of Institution	Designation	From (dd/mm/yyyy)	To (dd/mm/yyyy)
-------	---------------------	-------------	----------------------	--------------------

12. Name(s) & designation(s) of the supervisor (one grade up) under whom Shari'ah scholar member of Shari'ah Board has served during the last five years:

S.No.	Name of Supervisor	Designation of Supervisor	Name of Institution
-------	--------------------	---------------------------	---------------------

13. Has he ever been terminated or dismissed in the capacity of employee director/chairman from any institution, firm or a company?

Yes _____ No _____

If yes, provide details in the following format:

S.No.	Year	Designation	Name of Institution	Reason of Termination/ Dismissal
-------	------	-------------	---------------------	-------------------------------------

14. Has he ever been convicted of any offence?

Yes _____ No _____

If yes, provide details in the following format:

S.No.	Year	Nature of offence	Authority by whom convicted	Penalty/Sentence Imposed
-------	------	-------------------	--------------------------------	-----------------------------

15. Has he ever been censured and/or penalized by any financial/tax authority (local or foreign)?

Yes _____ No _____

If yes, provide details in the following format:

S.No.	Year	Nature of findings	Authority by whom penalized	Penalty Imposed
-------	------	--------------------	--------------------------------	-----------------

16. Has he ever been dismissed from employment?

Yes _____ No _____

If yes, provide details in the following format:

S.No.	Year	Employer by whom dismissed	Reason of Dismissal
-------	------	----------------------------	---------------------

17. Does he hold/has held any executive/non-executive position in any other financial institution?

Yes _____ No _____

If yes, provide details in the following format:

S.No.	Designation and Nature of position	Name of Financial Institution	From (dd/mm/yyyy)	To (dd/mm/yyyy)
-------	------------------------------------	-------------------------------	----------------------	--------------------

18. Does he hold any direct or beneficial equity or proprietary interest in the business of: (a) the IFI in which he is being appointed as member Shari'ah Board, (b) Exchange Company (c) Member of Stock Exchange, and (d) Corporate Brokerage House or he is employee of any of the aforementioned entities.

Yes_____ No_____

If having equity or proprietary interest, provide details in the following format:

S.No.	Name of Institution	Percentage Interest Held	From (dd/mm/yyyy)	To (dd/mm/yyyy)
-------	---------------------	--------------------------	----------------------	--------------------

If employee of any of the aforementioned entities, provide details in the following format:

S.No.	Name of Institution	Designation	From (dd/mm/yyyy)	To (dd/mm/yyyy)
-------	---------------------	-------------	----------------------	--------------------

19. Shareholding in the IBI Number of shares held as of _____

20. Does he hold any direct or beneficial equity interest in the business of any other Islamic banking or Islamic financial institution? If yes, provide details in the following format:

S.No.	Name of Institution	Percentage Interest Held	From (dd/mm/yyyy)	To (dd/mm/yyyy)
-------	---------------------	--------------------------	----------------------	--------------------

21. Names & addresses of three respectable persons (not relatives) who have been closely acquainted with the member Shari'ah Board of the IBI during the last five years.

S.No.	Name	Address	Contact No.
1			
2			
3			

(Signature of the proposed member of
Shari'ah Board of the IBI)

Affidavit

(On Non-Judicial Stamp Paper)

I, _____ son/daughter/wife of _____ adult, resident of _____ and holding CNIC No./Passport No. _____ do hereby state on solemn affirmation as under:-

- a. that the deponent hereby confirms that the statements made and the information provided in the attached proforma and the answers thereof are correct and that there are no other facts that are relevant for "Fit and Proper Criteria" which I have not disclosed;
- b. that the deponent undertakes that the State Bank of Pakistan may seek additional information from any third party it deems necessary in view of assessing "Fit and Proper Criteria"
- c. that the deponent undertakes to bring to the attention of the State Bank of Pakistan any matter which may potentially affect my status of eligibility as being someone fit and proper as and when it arises; and
- d. that whatever is stated above is true and correct to the best of my knowledge and belief and nothing has been concealed therefrom.

DEPONENT

The Deponent is identified by me

Signature _____

**ADVOCATE
(Name and Seal)**

Solemnly affirmed before me on this _____ day of _____ at _____ by the Deponent above named who is identified to me by _____, Advocate, who is known to me personally.

Signature _____
**OATH COMMISSIONER FOR TAKING
AFFIDAVIT
(Name and Seal)**

DECLARATION OF FIDELITY AND SECRECY

(To be signed by the Shari'ah Board Member)

In terms of Clause 7 of Fit and Proper Criteria for the appointment as a Shari'ah Board Member, I, (insert name) on becoming Shari'ah Board Member of the (insert name of bank), in terms of Section 33-A of the Banking Companies Ordinance, 1962 do hereby solemnly & sincerely confirm/declare that I shall observe strict fidelity, secrecy and usage customary among bankers and all matters relating thereto and in particular shall not divulge or communicate any information relating to the affairs of its customers, which may come to my knowledge in discharging my duties directly or indirectly, except in circumstances in which it is in accordance with law, practice and usage customary among bankers.

Dated: _____ Signature: _____

Stamp: _____

Report of Shari'ah Board

(Period)

In the name of Allah, the Beneficent, the Merciful

1. While the Board of Directors and Executive Management are solely responsible to ensure that the operations of (*name of the bank*) are conducted in a manner that comply with Shari'ah principles at all times, we are required to submit a report on the overall Shari'ah compliance environment of (*name of the bank*).

2. To form our opinion as expressed in this report, the Shari'ah Compliance Department of the bank carried out reviews, on test check basis, of each class of transactions, the relevant documentation and process flows. Further, we have also reviewed the reports of the internal Shari'ah audit and external Shari'ah audit. Based on above, we are of the view that:

(SB's opinion at least on the following may be given)

- i. Whether or not IBI has complied with Shari'ah rules and principles in the light of fatawa, rulings and guidelines issued by its Shari'ah Board
- ii. Whether or not IBI has complied with directives, regulations, instructions and guidelines related to Shari'ah compliance issued by SBP in accordance with the rulings of SBP's Shari'ah Board.
- iii. Whether or not the bank has a comprehensive mechanism in place to ensure Shari'ah compliance in their overall operations.
- iv. Whether or not the bank has a well-defined system in place which is sound enough to ensure that any earnings realized from sources or by means prohibited by Shari'ah have been credited to charity account and are being properly utilized.
- v. Whether or not the bank has complied with the SBP instructions on profit and loss distribution and pool management.
- vi. The level of awareness, capacity and sensitization of the staff, management and the BOD in appreciating the importance of Shari'ah compliance in the products and processes of the bank.
- vii. Whether or not the Shari'ah Board has been provided adequate resources enabling it to discharge its duties effectively.

3. Further, the following are the significant Shari'ah related issues of the bank which have been taken up with its management; however, these are still outstanding.

Signature

Name

Chairman Shari'ah Board

Signature

Name

Member Shari'ah Board

Signature

Name

Member Shari'ah Board

Date of Report: _____